

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

DOUGLAS SHARRON PIGGEE,

Plaintiff,

v.

**Civil Action No. 2:07cv8
(Judge Maxwell)**

**C. OLINGER, S.I.A. ANTONELLI,
L. ODDO, LT. TRATE AND FOSTER,**

Defendants.

OPINION/REPORT AND RECOMMENDATION

On October 31, 2007, the undersigned denied the petitioner's request to waive his court assessed initial partial filing fee. Therefore, the petitioner was advised that he had twenty (20) days from the date of the Order in which to pay the initial partial fee. Upon a review of the file on this date, the plaintiff has failed to pay the initial partial fee, has not requested additional time to do so, nor otherwise explained the reasons for noncompliance. Accordingly, it is recommended that the plaintiff's complaint be **DISMISSED without prejudice** for the failure to prosecute pursuant to Rule 41(b) of the Federal Rules of Civil Procedure.

Within **ten (10) days** after being served with a copy of this opinion, any party may file with the Clerk of Court written objections identifying those portions of the report and recommendation to which objection is made and the basis for such objections. A copy of any objections shall also be submitted to the Honorable Robert E. Maxwell, United States District Judge. Failure to timely file objections to this opinion will result in waiver of the right to appeal from a judgment of this Court based upon such recommendation. 28 U.S.C. § 636(b)(1); Thomas v. Arn, 474 U.S. 140 (1985); Wright v. Collins, 766 F.2d 841 (4th Cir. 1985); United States v. Schronce, 727 F.2d 91 (4th Cir. 1984), cert. denied, 467 U.S. 1208 (1984).

The Clerk is directed to send a copy of this Opinion/Report and Recommendation to the *pro se* petitioner by certified mail, return receipt requested, to his last known address as shown on the docket.

Dated: February 29, 2008.

John S. Kaul

JOHN S. KAUL
UNITED STATES MAGISTRATE JUDGE